

Misbranding was alleged for the reason that the package or label bore a statement regarding the article or the ingredients or substances contained therein which was false and misleading and deceived and misled the purchaser, as follows: "Everybody's Colored Distilled Vinegar reduced to 4% Acetic Strength."

On November 21, 1928, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

16162. Misbranding of sirup. U. S. v. 6 Cases of Sirup. Tried to the court and jury. Special verdict for the Government. Decree of condemnation and forfeiture. Product ordered sold or released under bond to be relabeled. (F. & D. No. 22709. I. S. No. 17923-x. S. No. 728.)

On April 19, 1928, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, and on June 13, 1928, an amended libel, praying seizure and condemnation of 6 cases, each containing a number of cans of sirup, remaining in the original unbroken packages at Evanston, Wyo., alleging that the article had been shipped from the Early Coffee Co., Denver, Colo., on or about November 15, 1927, and transported from the State of Colorado into the State of Wyoming, and charging misbranding in violation of the food and drugs act.

It was alleged in substance in the libel as amended that the article contained in the said cans was misbranded so as to deceive and mislead the purchaser in that the cans were labeled in part, "Maple Maid Syrup. Made from pure, refined maple sugar. Manufactured by The Maple Maid Syrup Company, Denver," and bore a design showing a grove or woods of maple trees with buckets hanging from spiles in the trees, and a figure of a woman in the said grove or woods carrying maple-sap buckets, which statements and designs were intended to represent to purchasers that the contents of the said cans were pure maple sirup; whereas it was not maple sirup, but sugar sirup and glucose had been mixed and packed with and substituted in part for maple sirup. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article, to wit, maple sirup.

On November 28, 1928, the Early Coffee Co., Denver, Colo., having intervened as claimant, and having filed an answer denying that the product was misbranded, the case came on for trial before the court and jury. After hearing the evidence, arguments by counsel, and instructions of the court, the jury retired and after due deliberation returned a special verdict that the labels on the sirup were misleading. On December 27, 1928, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be sold by the United States marshal. The decree provided, however, that the product might be released to the said claimant upon payment of costs and the execution of a bond in the sum of \$100, conditioned that it be relabeled under the supervision of this department.

R. W. DUNLAP, *Acting Secretary of Agriculture.*

16163. Misbranding of flavoring sirups. U. S. v. 57 Kegs of Sirup, et al. Product adjudged misbranded. Released under bond. (F. & D. No. 21810. I. S. Nos. 17096-x, 17097, 17098-x. S. No. W-2135.)

On April 11, 1927, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 140 kegs of flavoring sirups, remaining in the original unbroken packages at Fresno, Calif., alleging that the articles had been shipped by Lyons Bros., from Eagle Fort, Texas, on or about October 29, 1926, and transported from the State of Texas into the State of California, and charging misbranding in violation of the food and drugs act as amended. The articles were labeled in part, variously: "Mexican Hot (or "Muscatel Imitation Punch" or "Peach Imitation Punch") Artificially Colored and Flavored."

It was alleged in the libel that the articles were misbranded in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

On February 1, 1929, the products having been theretofore released to the claimant, Lyons Bros., Dallas, Tex., under bond, and having been relabeled to